



City of Chicago



O2020-98

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	1/15/2020
Sponsor(s):	Lightfoot (Mayor)
Type:	Ordinance
Title:	Amendment of Municipal Code Sections 10-28-010 and 10-28-015 regarding public way use permitting processes
Committee(s) Assignment:	Committee on Transportation and Public Way

TRANSP.



OFFICE OF THE MAYOR
CITY OF CHICAGO

LORI E. LIGHTFOOT
MAYOR

January 15, 2020

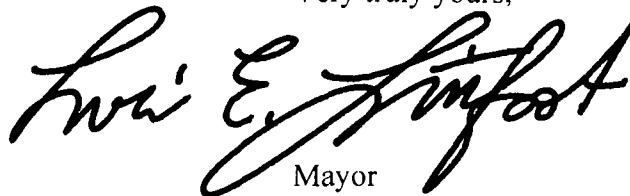
TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Business Affairs and Consumer Protection, I transmit herewith an ordinance amending sections 10-28-010, 015 of the Municipal Code regarding public way permitting.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,


Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The following Sections of Chapter 10-28 of the Municipal Code of Chicago are hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

10-28-010 Permission required.

(a) For purposes of Sections 10-28-010 through 10-28-020, and as used in Sections 10-28-046, ~~10-28-065~~, and 10-29-020, the following definitions apply:

(Omitted text is unaffected by this ordinance)

“Public Way Use Permit” or “Permit” means a permit issued for use of the public way.

“Sign(s)” has the same meaning ascribed to that term in Section 13-20-510.

“Subsidewalk Space” means the space underneath the surface of any public way.

(Omitted text is unaffected by this ordinance)

(b) Unless otherwise authorized by this Code, it shall be unlawful for any person to construct, install, or maintain any of the following on, under, or above the public way without a public way use permit ~~authorized by ordinance passed by the City Council:~~

(Omitted text is unaffected by this ordinance)

(11) any other structure or device, including a sign, except for a City digital sign, that is on, over, or under the public way.

(Omitted text is unaffected by this ordinance)

(f) Provided, however, no ~~permit ordinance~~ authorizing such public way use shall be required to construct or maintain (i) parking meters and signs by a person, or the person’s designee, acting pursuant to a concession agreement approved by the City Council governing the operation, maintenance, improvement, installation and removal of, and the collection of fees from, certain designated parking meters, or (ii) City digital signs by a person, or the person’s designee, acting pursuant to a coordinated City digital sign program agreement approved by the City Council’s governing the operation, maintenance, improvement, installation and removal of such City digital signs.

(Omitted text is unaffected by this ordinance)

(j) The issuance of a public way use permit does not authorize or permit the installation, erection, maintenance or enlargement of a sign, canopy, marquee, awning, or bay window without a valid sign permit issued by the Department of Buildings.

10-28-015 Public way use permits – Application and issuance.

(a) An application for a public way use permit shall be made to the ~~department~~ Department and shall include the following:

(1) the applicant's name and address, and the name and address of the property owner;

(2) a detailed drawing indicating the location of all public way uses on, over or under the public way for which a permit is required;

(3) proof of the required insurance;

(4) proof of the building's age if the building was constructed in or prior to 1922;

(5) a recommendation from the alderman of the affected ward.

(A) The recommendation shall be based on the alderman's analysis of the factors contained in subsection (c) of this section;

(B) The alderman shall not unreasonably withhold such recommendation and shall provide it to the applicant within 30 days of receiving the permit application, unless the Commissioner determines that good cause exists for a reasonable extension, not to exceed 30 days. If an applicant can demonstrate that an alderman has received the application but not provided a recommendation within the period specified here, the applicant shall not be required to include such recommendation in the application.

~~(5)(6)~~ the application fee, if applicable; and

~~(6)(7)~~ any other information reasonably required by the ~~commissioner~~ Commissioner.

(b) ~~The commissioner~~ Commissioner shall forward a copy of an application for subsidewalk space use to the ~~commissioner~~ Commissioner of transportation Transportation within three days after receipt of the application. No public way use permit for subsidewalk space use shall be issued unless the ~~commissioner~~ Commissioner of transportation Transportation, after reviewing the application, has approved the design of the subsidewalk space use.

(c) (1) If the commissioner Commissioner finds that the applicant meets the applicable requirements, ~~the commissioner shall provide the application to the alderman of the affected ward. Upon passage of an ordinance approving the application, the commissioner~~ Commissioner shall issue the public way use permit to the applicant. ~~If approval by ordinance is withheld the Commissioner finds that the applicant does not meet the applicable requirements, the commissioner~~ Commissioner shall deny the application and shall notify the unsuccessful applicant in writing of the denial within ten business days after the denial.

A public way use permit shall be denied or revoked if: (i) the granting of the public way use is not in the best interest of the public, would have a deleterious impact on the neighborhood, or would create a nuisance either on the public way or in the surrounding area;

(ii) the design of, or materials used in, the public way use does not comport with the quality or character of the existing streetscape; (iii) the use interferes with or impedes the flow of pedestrian or vehicular traffic, or ingress or egress from any surrounding building, the use of any pole, traffic signs or signals, hydrants, mailboxes or other objects located near the location of the proposed use; or (iv) the applicant makes any false statements, submits any false information or misrepresents any information required under this section.

(2) Administrative appeal process. Upon denying an application made under this section, the Commissioner shall notify the applicant, in writing, of such fact and of the basis for the denial. Such notice shall include a statement informing the applicant that the applicant may, within 10 calendar days of the date on which the notice was sent, request, in a form and manner prescribed by the Commissioner in rules, a hearing before the Commissioner to contest the denial. The notice shall also advise the applicant that the applicant is entitled to present to the Commissioner any document, including affidavits, related to the Commissioner's determination of denial. If requested, a hearing before the Commissioner shall be commenced within 10 business days of receipt of such request. Within 60 calendar days of completion of the hearing the Commissioner shall either affirm or reverse such determination based upon the evidence presented. The Commissioner's decision shall be final and may be appealed in the manner provided by law. If an applicant fails to request a hearing within the prescribed time, or requests a hearing but fails to appear at such hearing, the application shall be deemed denied. Upon entry of a final order of denial, the Commissioner shall notify the applicant in writing of such fact. Public way use permit revocations and rescissions shall follow the same process set forth in this subparagraph.

(Omitted text is unaffected by this ordinance)

(e) All public way use permits shall be subject to the following:

(1) Each public way use and the structures and appliances authorized by the permit shall be maintained and used in accordance with all applicable laws, including the ordinances of the city and the directions of the ~~commissioner~~ Commissioner, the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation, the ~~building commissioner~~ Building Commissioner, and the ~~commissioner~~ Commissioner of transportation Transportation. The permittee shall keep that portion of the public way in, over, under or adjacent to the public way use in good condition and repair, safe for public travel, and free from snow, ice and debris to the satisfaction of the ~~commissioner~~ Commissioner of transportation Transportation.

(2) Notwithstanding any other provision of this section, if circumstances warrant, the public way use granted by the permit is subject to amendment, modification or repeal and a public way use permit may be revoked revocation at the discretion of the mayor or the ~~commissioner~~ Commissioner at any time, without cause and without the consent of the permittee. Upon termination of the permit, the permittee, at ~~his or her~~ the permittee's own expense and without cost or expense to the City, shall remove, within 30 days of such termination and without the notice required in Section 10-28-010, the public way use and any structures and appliances authorized by the public way use permit and restore the public way where disturbed by the public way use or by the removal thereof, to a proper condition under the

supervision and to the satisfaction of the ~~commissioner~~ Commissioner of ~~transportation~~ Transportation.

(3) In the event of failure, neglect or refusal of the permittee to perform any of his or her obligations, the ~~city~~ City may, at its option, either (i) perform such work and charge the cost to said permittee, or (ii) determine what the cost of the work shall be and bill the permittee for the cost, or combine the two methods. Immediately upon receipt of notice of such cost, the permittee shall pay the ~~city~~ City such amount.

(4) The permittee shall be responsible for and shall pay for the removal, relocation, alteration, repair, maintenance, and restoration of, ~~city~~City-owned structures or appliances located in or adjacent to the public way, including pavement, bridges, subways, tunnels, vaults, sewers, water mains, conduits, pipes, poles and other facilities and utilities, which are necessary or appropriate on account of the permittee's use of the public way. The ~~commissioner~~ Commissioner of ~~transportation~~ Transportation is authorized, in his or her discretion and from time to time during the permittee's use and occupancy of the public way until the restoration of the public way, to determine the work which is or will be necessary or appropriate and the cost involved to perform such work and is authorized to collect a deposit prior to commencing any work and to charge the permittee all actual costs for causing all such work to be performed. The decision of the ~~commissioner~~ Commissioner of ~~transportation~~ Transportation shall be final and binding. The permittee, upon receiving written notification from the ~~commissioner~~ Commissioner of ~~transportation~~ Transportation of the required deposit or the cost of such work, shall immediately pay or deposit such amount as directed by the ~~commissioner~~ Commissioner.

(5) The permittee shall furnish to the ~~department~~ Department, prior to issuance of the public way use permit, proof of insurance evidencing commercial general liability coverage in an amount not less than \$1,000,000.00 per occurrence, covering bodily injury, personal injury and property damage, that may result from issuance of the permit or use of the public way. The insurance shall name the ~~city~~ City and its agents and employees as additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the permittee's operations and shall also clearly indicate that the public way use being permitted is covered by the insurance policy. Every policy required shall require 30 days' advance notice to the ~~commissioner~~ Commissioner prior to cancellation or lapse of the policy. Proof of renewal of such insurance coverage shall be furnished to the ~~department~~ Department no later than 30 days prior to the expiration of the policy. The insurance coverage shall be maintained at all times by the permittee until: (i) the public way use authorized by the permit is removed; (ii) the public way is restored to the satisfaction of the ~~commissioner~~ Commissioner of ~~transportation~~ Transportation; and (iii) all fees due the ~~city~~ City have been paid.

(6) Apart from and separate from any insurance requirement under this section, the permittee shall indemnify, defend, keep and save harmless the ~~city~~ City, its agents and employees against all claims, liabilities, judgments, costs, damages and other expenses which may in any way arise or accrue against, be charged to or recovered from the ~~city~~ City, its agents or employees in consequence of the permission given by the public way use permit, or any act or thing done or omitted or neglected to be done by the permittee, its agents or employees in and about the construction, reconstruction, maintenance, operation, use or removal of the authorized public way uses and structures or appliances thereof, operation or

restoration of the public way as required, including those arising from any personal injuries or deaths or damage or destruction of property.

(f) The permit shall be valid only to the person to whom it was issued and it shall not be subject to sale, assignment, or transfer, voluntary or involuntary, except upon the approval of the ~~commissioner~~ Commissioner.

(Omitted text is unaffected by this ordinance)

SECTION 2. Following due passage and approval, this ordinance shall take effect June 1, 2020.